THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

W.P.No.20673 OF 1999

Date: 27.07.2005

Between:

A. Badarinarayana

..... Petitioner

and

The Commissioner, Municipal Corporation of Kurnool, Kurnool district.

.... Respondent

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

W.P.No.20673 OF 1999

ORDER:

This writ petition is filed assailing the action of the respondent in issuing the endorsement, dated 15.06.1999, insisting on the petitioner to pay the developmental charges and other penal amounts contrary to the guidelines contained in G.O.Ms.No.419 MA, dated 30.07.1998.

The petitioner claims to be the absolute owner of the land in an extent of 653.80 sq. mtrs. situated at Nehru Road, Kurnool town and constructed a building therein, after obtaining necessary approvals from the Municipality, Kurnool. The building was utilized for commercial purpose. It is submitted that the Government of Andhra Pradesh issued G.O.Ms.No.419 MA, dated 30.07.1998, giving one time opportunity to the individuals to come forward and declare voluntarily the unauthorized constructions made and to get them regularized by paying the penal amounts. In the said G.O., it is stated that the unauthorized constructions made up to 30.06.1998 are to be regularized by paying penal amount prescribed thereunder. As the petitioner was already granted permission to construct the building, he submitted an application for regularization of its unauthorized use for commercial purpose. The grievance of the petitioner is that though he paid Rs.10,000/- towards penal charges, the respondent issued a revised endorsement, dated 15.06.1999, informing him to pay an amount of Rs.2,43,253/- towards penal charges and other expenses. Hence, he filed the present writ petition seeking necessary directions to the respondent in this regard.

This writ petition is of the year 1999. However, no counter-affidavit is filed on behalf of the respondent.

Heard the learned counsel for the petitioner.

The grievance of the petitioner is that he paid Rs.10,000/- towards penal charges, however, the respondent issued the impugned notice demanding him to pay Rs.2,43,253/- within three days for the regularization of the unauthorized construction made by him, contrary to the guidelines issued by the Government in G.O.Ms.No.419/MA, dated 30.07.1998, without giving any opportunity of being heard. Further, it is his case that he obtained the permission for construction of the building and that he made the representation only seeking regularization of his unauthorized use of the building for commercial purpose. As seen from the record, it is clear that the respondent failed to place before this Court as to on what basis he assessed the penal charges.

In that view of the matter, the impugned endorsement, dated 15.06.1999, is set aside. The respondent is directed to issue a fresh notice to the petitioner fixing the penal charges for his unauthorized use of the building, in accordance with the guidelines issued by the Government in G.O.Ms.NO.419 MA, dated 30.07.1998, within a period of 12 weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. There shall be no order as to costs.

27.7.2005

ksld